

**FEB 26 1987**

**JOSEPH F. SPANIOL, JR.**  
**CLERK**

**No. 86-904**

**IN THE  
SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1986**

**ROBERT B. TRAINER and  
SIRIN D. TRAINER,**

*Petitioners,*

**v.**

**THE UNITED STATES,**

*Respondent.*

**ON PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT**

**PETITIONERS' REPLY MEMORANDUM**

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*Counsel of Record*

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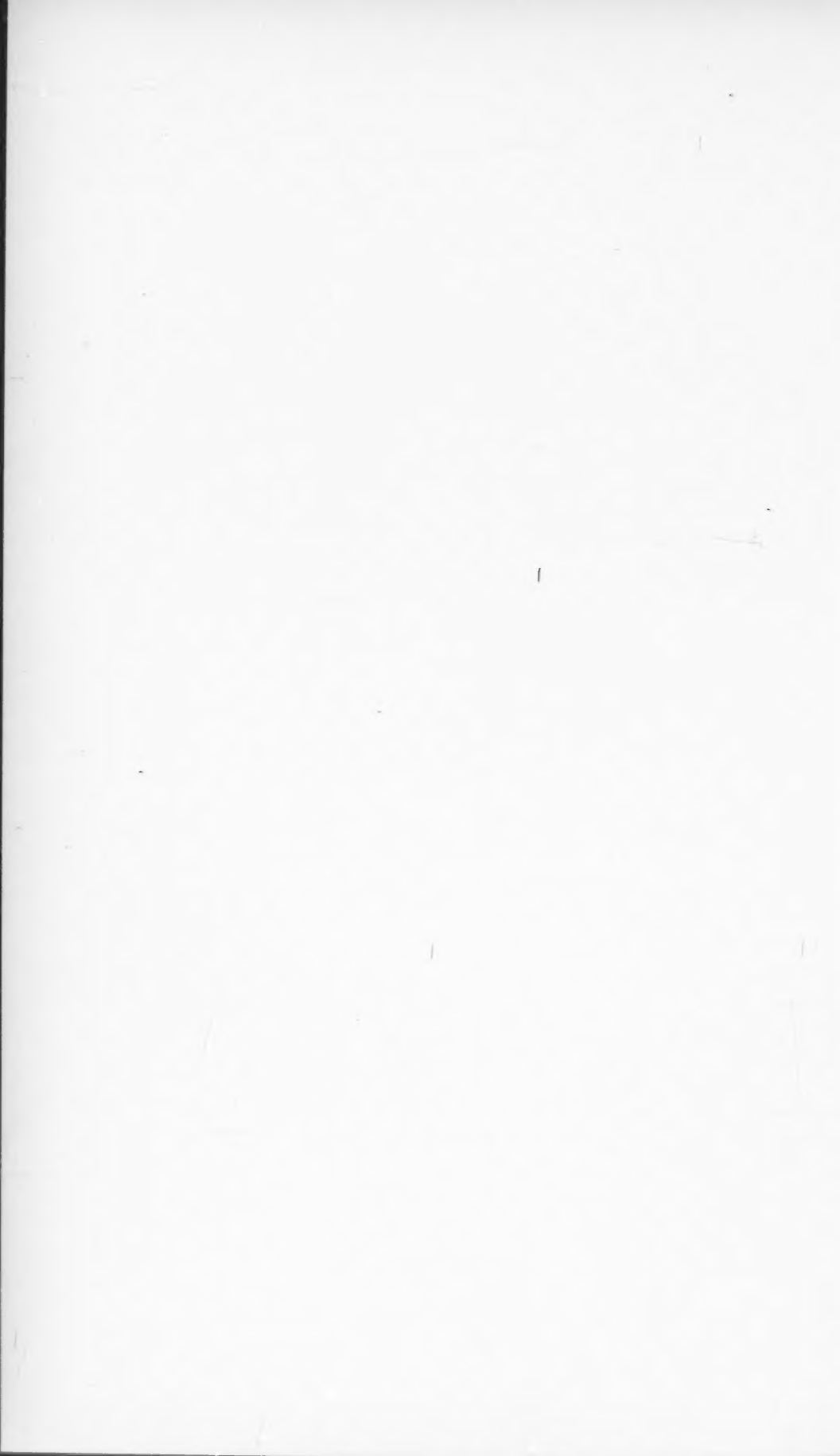
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*Attorneys for Petitioners*

**February 26, 1987**



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The Solicitor General contends that since the "add-on minimum tax" at issue in this case has been repealed and since the "alternative minimum tax" currently imposed is calculated quite differently, the impact of a decision by this Court is severely limited and thus review of this case inappropriate. (Brief in Opp., p. 6, n. 5). This contention is erroneous. The decisions by the Federal Circuit Court of Appeals below and the other courts that have considered the character of the minimum tax have defined "income" to include an amount that does not permit the tax free recovery of all capital costs. This definition of income is contrary to the well settled definition of income established by long standing decisions of this Court for purposes of the sixteenth amendment. If allowed to stand, this erroneous definition of income could have serious adverse

precedential consequences. Accordingly, the legislative changes to the statutory provisions in issue do not diminish the significance of a decision by this Court in this case.

In addition, the question of the deductibility of the add on minimum tax "remains one of substantial importance in the administration of the income tax laws for earlier tax years." *Colony, Inc. v. Commissioner*, 357 U.S. 28, 32 (1958). During the first year of enactment, the minimum tax was projected to raise \$650,000,000 in revenue. Tax Reform Act of 1969, Pub. L. No. 91-172, 83 Stat. 487, Sec. 301. The amendments to the add on minimum tax made by the Tax Reform Act of 1976 were expected to increase tax liability by \$777,000,000 in 1977 and by up to \$1,091,000,000 in 1981. Tax Reform Act of 1976, Pub. L. No. 94-455, 90 Stat. 1520, Sec. 301. Thus, the characterization of the minimum tax will have an important and substantial impact for the years during which it was effective.

For these reasons, as well as the arguments set forth in the petition for writ of certiorari, the petition should be granted.

Respectfully submitted,

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